IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

APPEAL FROM ORDER NO.129 OF 2007

WITH

CIVIL APPLICATION NO.192 OF 2007

Mr.Surendra Kumar S/o.Kundamal Jain ...Appellant

Versus

M/s.Darshan Constructions & Ors. ...Respondents

.....

Mr.A.M.Saraogi for Appellant.

Mr.P.K.Dhakephalkar with Mr.Yadunath Chaudhari for Respondent No.1.

Mr.Gawade, A.G.P. for Respondent No.4.

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CORAM: A.M.KHANWILKAR, J.

MARCH 13, 2007.

P.C.

1. After hearing Counsel for the parties, as I indicated my mind that at any rate, the finding recorded by the Trial Court on the point of valuation is unexceptionable, for which reason, the Plaint itself will have to be returned to the Plaintiff for being presented before the

appropriate Court, Counsel for the Appellant, on instructions, submits that in that case, the Appellant/Plaintiff be permitted to withdraw the present Suit, to be presented before the appropriate Court, leaving all questions open.

2. Accordingly, this request of the Appellant being reasonable one, will have to be granted. Accordingly, this Appeal is dismissed as withdrawn and the assurance of the Appellant that the Suit being L.C.Suit (Stamp) No.2470 of 2006 pending before the City Civil Court will be withdrawn by the Appellant with liberty to file fresh Suit for the same cause of action before the appropriate Court, is accepted. All questions in those proceedings are left open.

3. Appeal and the companion Civil Application disposed of accordingly.

A.M.KHANWILKAR, J.